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*Canada Railway, Canals & Telegraph
Lines. Standing Cttee on. 1938*

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SESSION 1938

(HOUSE OF COMMONS)



(STANDING COMMITTEE)

ON

(RAILWAYS, CANALS AND TELEGRAPH LINES)

MINUTES OF PROCEEDINGS

Respecting

BILL No. 31—THE TRANSPORT ACT, 1938

No. 9

THURSDAY, MAY 26, 1938

TUESDAY, MAY 31, 1938

APPENDIX

Page 1 of a Memorandum submitted on May 19 by the Canadian Manufacturers' Association.

REPORT TO THE HOUSE

TUESDAY, May 31, 1938.

The Standing Committee on Railways, Canals and Telegraph Lines begs leave to present the following as a

SEVENTH REPORT

Your Committee has considered Bill No. 31, an Act to establish a Board of Transport Commissioners for Canada, with authority in respect of transport by railways, ships and aircraft, and has agreed to report the said bill with amendments.

A reprint of the bill, as amended, has been ordered.

A copy of the evidence taken is appended.

All of which is respectfully submitted.

EUGENE FISET,
for *Chairman*.

MINUTES OF PROCEEDINGS

THURSDAY, May 26, 1938.

The Standing Committee on Railways, Canals and Telegraph Lines met at 10.30 a.m. Sir Eugène Fiset, the Deputy Chairman, presided.

Members present: Messrs. Barber, Bertrand (*Laurier*), Brown, Cameron (*Hastings South*), Clark (*York-Sunbury*), Chevrier, Damude, Duffus, Dupuis, Emmerson, Fiset (Sir Eugène), Gladstone, Hamilton, Hanson, Heaps, Howden, Isnor, Johnston (*Bow River*), MacKinnon (*Edmonton West*), McCallum, McCulloch, McIvor, McNiven (*Regina City*), Maybank, Mutch, Parent (*Terrebonne*), Ross (*Moose Jaw*), Stevens, Sylvestre.

In attendance: Hon. Mr. Howe, Minister of Transport; Mr. F. P. Varcoe, Law Branch, Department of Justice; Mr. W. E. Campbell, Chief Traffic Officer, Board of Railway Commissioners.

Bill No. 31, An Act to establish a Board of Transport Commissioners for Canada, with authority, in respect to transport by railways, ships and aircraft.

A letter, dated May 25, received from Mr. Brown, Canadian Manufacturers Association, was ordered to be printed (together with page 1 of his submission, omitted from page 298 of the evidence). (*See Appendix.*)

Mr. Stevens moved that Part V be deleted.

The question being put, it was negatived, Yeas 2, Nays 19.

Section 35 (1). Mr. Stevens moved that the words: "Notwithstanding anything in the Railway Act, or in this Act or in any other statute", be deleted.

The question being put, it was negatived, Yeas 2, Nays 18.

Mr. Ross (*Moose Jaw*) moved that the words "or in any other statute" be deleted.

The question being put, it was resolved in the affirmative.

Section 35 (1), as amended carried.

Section 35 (2). Mr. Campbell, Chief Traffic Officer, Board of Railway Commissioners, was heard respecting present procedure.

Mr. Stevens moved that after the words "agreed charges" there be added: "including a duplicate original of the agreement".

The question being put, it was resolved in the affirmative.

Mr. Ross (*Moose Jaw*) moved that the following words be added at the end of subsection (2):—

"An agreed charge shall be made on the established basis of rate making and shall be expressed in cents per hundred pounds or such other unit as the Board may approve; and the carload rate for one car shall not exceed the carload rate for any greater number of cars."

The question being put, it was resolved in the affirmative.

Mr. Isnor moved that the words "in such manner as the Board may direct" be deleted, and that the following be substituted therefor:—

"by the insertion of such notice twice in a daily newspaper published in or near the place of residence of the applicant, and such notice shall contain a fair and comprehensive summary of the proposed agreement".

The question being put, it was resolved in the negative, Yeas 8, Nays 15.

Section 35 (4) and (8). Section 36 having been deleted the Committee resolved that the words "subject to the provisions of the next succeeding section", as contained in paragraph (b) of these subsections, be deleted.

Section 37. Carried.

Section 38. Mr. Hanson moved that the "Crow's Nest Pass" Act should be included. The question being put, it was resolved in the affirmative.

Section 39. Carried.

By general agreement previously arrived at, the Committee reviewed the bill for consequential or other amendments, when the following changes were approved:—

Section 2 (1) (e). After "processed", add the words: "including ore concentrates in sacks".

Section 5 (2) (a). At the beginning thereof insert the following words:—"Notwithstanding anything contained in subsection one of this section,"

Section 5, as amended, carried.

Section 10 (1). Delete "Minister" and substitute "Board". (4) Delete "Minister" and substitute "Board". At the end of (4) insert the following words:—"Provided that the licensee may be authorized to substitute another ship of approximately the same tonnage for a ship named in the licence".

Section 10, as amended, carried.

Section 13 (1) (4) (5). Delete "Minister" and substitute "Board".

Section 15 (1) (b). Delete the words "or within particular stated areas".

Section 15, as amended, carried.

Mr. Stevens moved that a new part—Part VI—be added to the bill viz:

PART VI

HARBOUR TOLLS

The Board shall when requested by the Minister make inquiry, and at the conclusion thereof report to him, in respect of any harbour toll as to whether such harbour toll is just and reasonable under all the circumstances, and without restricting the generality *inter alia* of the foregoing the Board shall in the conduct of such inquiry have regard to—

- (a) the service, privilege, advantage or benefit enjoyed or provided in respect of which the harbour toll is charged;
- (b) the cost of providing, operating and maintaining the facilities and services of the harbour, including, without restricting the generality of the foregoing, interest on capital investment and depreciation;
- (c) comparable tolls and charges payable at any harbour in Canada or elsewhere than in Canada;
- (d) whether such harbour toll is under substantially similar circumstances and conditions charged equally to all persons;
- (e) the effect of such harbour toll upon the movement of ships, goods or passengers, as the case may be, through the harbour and upon the movement of trade generally.

(2) The Board shall with its report transmit to the Minister a copy of the evidence taken by the Board in the course of its inquiry.

Mr. Howden moved that there be added after the words "as the Board may direct" the following: "Thirty days before the hearing of the said application the carrier shall give public notice of the said application by publication of the same and of the agreement once in the *Canada Gazette*, and in such other manner as the Board may direct".

In amendment thereto, Mr. Mutch moved that from the motion of Mr. Howden there be deleted the words "and of the agreement".

The question being put on the amendment to the motion, it was resolved in the affirmative. Yeas 11, Nays 10.

Section 35 (2), as amended carried.

Section 35 (3). Mr. Stevens moved that the words "or without restriction of time" be deleted, and the words "not exceeding one year" substituted therefor.

The question being put, it was negatived, Yeas 5, Nays 16.

Section 35 (3) carried.

Section 35 (4). Mr. Stevens moved that "(c) any carrier" be deleted and that "(c) any person" be substituted therefor.

The question being put, it was negatived, Yeas 6, Nays 16.

Section 35 (4) carried.

Section 35 (5). Mr. Campbell of the Board of Railway Commissioners was heard respecting the interpretation of the words "under substantially similar circumstances".

Section 35 (5) carried.

Section 35 (6). Mr. Stevens registered objection to "without restriction of time".

Section 35 (6) carried.

Section 35 (7) carried.

Section 35 (8). Mr. Stevens registered objection to "without restriction of time".

Section 35 (8) carried.

Section 35 (9), (10) and (11) carried.

Section 36. Mr. Stevens moved that this section be deleted.

Motion to stand over.

The Committee adjourned until 4 p.m. this day.

AFTERNOON SITTING

The Committee resumed at 4 p.m., Sir Eugène Fiset, the Deputy Chairman, presided.

Members present: Messrs. Barber, Bertrand (*Laurier*), Brown, Cameron (*Hastings South*), Duffus, Emmerson, Fiset (Sir Eugène), Hanson, Howden, Isnor, Johnston (*Bow River*), McCann, McCulloch, McIvor, Maybank, Mills, Mutch, Parent (*Terrebonne*), Pelletier, Stevens.

In attendance: Hon. Mr. Howe, Minister of Transport; Mr. W. E. Campbell, Chief Traffic Officer, Board of Railway Commissioners; Mr. W. J. Matthews, Law Branch, Department of Transport.

Section 36. Mr. Stevens moved that this section be deleted. The question being put, it was resolved in the affirmative.

If the Board, after inquiry as hereinbefore provided is of the opinion that any harbour tolls should be amended or rescinded or other harbour tolls substituted therefor, it shall be the duty of the Board to forward with its report a recommendation to the Minister for such action as he deems fit.

The question being put, it was resolved in the affirmative.

The Committee decided to have the bill reprinted for further review at the next meeting.

The Committee adjourned until Tuesday, May 31, at 10.30 a.m.

JOHN T. DUN,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

TUESDAY, May 31, 1938.

The Standing Committee on Railways, Canals and Telegraph Lines met at 10.30 a.m. Sir Eugène Fiset, the Deputy Chairman, presided.

Members present: Messrs. Brown, Cameron (*Hastings South*), Clark (*York-Sunbury*), Chevrier, Emmerson, Sir Eugène Fiset, Gladstone, Hanson, Isnor, MacKinnon (*Edmonton West*), MacNicol, McCallum, McCulloch, McIvor, McKinnon (*Kenora-Rainy River*), Mills, Mutch, O'Neill, Parent (*Terrebonne*), Stevens, Streight, Sylvestre, Wermenlinger.

In attendance: Hon. Mr. Howe, Minister of Transport; Mr. W. J. Matthews, Law Branch, Department of Transport.

Bill No. 31, An Act to establish a Board of Transport Commissioners for Canada, with authority in respect of transport by railways, ships and aircraft. A reprint of the bill, showing amendments made to date, was reviewed.

Section 35.

The Minister of Transport stated that the following addition to (1) and redrafting of (2) and (3) had been printed for consideration by the Committee:—

and provided further than when the transport is by rail from or to a competitive point or between competitive points on the lines of two or more carriers by rail the Board shall not approve an agreed charge unless the competing carriers by rail join in making the agreed charge.

(2) Particulars of an agreed charge, including a duplicate original of the agreement, shall be lodged with the Board within seven days after the date of the agreement and notice of an application to the Board for its approval of the agreed charge shall be given at least thirty days before the hearing by publication in the *Canada Gazette* and in such other manner as the Board may direct.

(3) An agreed charge shall be made on the established basis of rate making and shall be expressed in cents per hundred pounds or such other unit as the Board may approve; and the car-load rate for one car shall not exceed the car-load rate for any greater number of cars.

The Committee concurred in the changes.

The insertion of a new subsection (10) shown below was agreed to:—

(10) All agreed charges shall, when approved, be published in the manner provided by section three hundred and thirty-one of the *Railway Act*.

Mr. Stevens moved that the following be inserted after (10):—

Notwithstanding anything aforesaid the provisions of this part shall not apply with respect to the carriage of goods between points or places in Canada where such carriage is only performed by carriers subject to the authority of the Board of Transport Commissioners, and the Board of Transport Commissioners shall not approve any agreement submitted to them which includes such carriage in the agreement or as a condition attached thereto."

The question being put, it was negatived.

Section 37. The Minister of Transport suggested that the words "or by chapter five of the Statutes of 1897," contained therein, were unnecessary. No change, however, was made.

Ordered,—To report the bill as amended.

The Committee adjourned to meet at the call of the Chair.

JOHN T. DUN,
Clerk of the Committee.

APPENDIX

CANADIAN MANUFACTURERS ASSOCIATION

TORONTO 2, May 25, 1938.

Please refer to file 1317-5.

Mr. JOHN T. DUN,
Clerk of Committee on Railways, Canals & Telegraph Lines,
House of Commons,
Ottawa, Ont.

DEAR SIR,—In reading over the proceedings of the meeting of the Standing Committee on Railways, Canals and Telegraph Lines—May 19th—No. 7—I find that at Page 298 the submissions which I presented on behalf of the Canadian Manufacturers' Association were not fully reported. Apparently, Page 1 of our additional memorandum was omitted. As you undoubtedly have a copy of our memorandum which was also distributed to various members of the Committee and the reporters, I should be pleased if you will see that the members of the Committee are advised, because on Page 1 we made several statements which are undoubtedly of some importance.

I also notice in reading over the evidence that at Page 300 there has been an omission of a word which materially changes the sense of the matter quoted. I refer to that portion of our statement which directly follows the quotation from Page 8 of our original memorandum. You will notice that the following is stated:—

The truth of this statement cannot be contradicted, however it may be glossed over. *If* in fact "unjust discrimination" will mean the same thing under Bill 31 . . .

It will be seen that the word "if" commencing the second sentence has been omitted from the record.

There is also a minor correction, in that I am referred to as "Mr. G. B. Brown" whereas you will see from the previous record that the first initial should be "S". This is, of course, on the title page of the Proceedings.

Yours faithfully,

S. B. BROWN,
Manager-Transportation Department.

SBB/N.

(The following matter formed Page 1 of a Memorandum submitted on May 19 by Canadian Manufacturers Association. Page 1 was inadvertently omitted from the printed Minutes of Evidence. It should have appeared at page 298.)

ADDITIONAL MEMORANDUM OF THE CANADIAN MANUFACTURERS' ASSOCIATION, INC.,
RESPECTING HOUSE OF COMMONS BILL NO. 31, "AN ACT TO ESTABLISH A
BOARD OF TRANSPORT COMMISSIONERS FOR CANADA, WITH AUTHORITY IN
RESPECT OF TRANSPORT BY RAILWAYS, SHIPS AND AIRCRAFT."

The submissions of the Canadian Manufacturers' Association, Inc., were placed before this Committee on the 28th of April last respecting Bill 31, and among other things expressed opposition to Part V of that Bill dealing with

agreed charges. On May 5th, 1938, Mr. I. C. Rand, K.C., Divisional Counsel of the Canadian National Railways, Montreal, and Mr. G. A. Walker, General Solicitor of the Canadian Pacific Railway Company, Montreal, placed before you the views of the Railway Association of Canada, with particular reference to Part V of the Bill and the submissions of the Canadian Manufacturers' Association in regard thereto.

The views of the Railway Association have been studied and while the Canadian Manufacturers' Association sees no reason to alter its opinions expressed in its original memorandum, it does believe that certain arguments advanced in the original memorandum of the Canadian Manufacturers' Association should be reiterated and emphasized, having in mind the views expressed by Mr. Rand and Mr. Walker on May 5th.

The Association believes it relevant to point out that almost the only advocates of Part V of this Bill are the two large railway companies. Briefly, the railways' case would appear to be that the agreed charges is of vital importance to enable them to meet the competing services of other agencies. The submissions of both Mr. Rand and Mr. Walker are that Part V of Bill 31, permitting the making of agreed charges, will not derogate from the provisions of the Railway Act as to the filing, publication and posting of documents or tariffs, that the position of shippers under Part V with respect to unjust

